THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO.5101 of 2006

DATED: 16.03.2006

Between:

Mulla Nabi Saheb …. Petitioner

AND

The Special Deputy Collector,

Land Acquisition and Rehabitation

Srisailam Project, Kurnool,

Kurnool District ….Respondent

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 5101 of 2006

ORDER:

Seeking to declare the action of the respondent in not passing the award in favour of

the petitioner by paying the compensation to the petitioner's acquired land situated in Survey No.203 to an extent of Ac.1.69 ½ cents pursuant to the DN & DD dated 24-05-2005 as illegal and arbitrary, petitioner filed the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent and perused the record.

Learned Counsel for the petitioner submitted that the petitioner is the owner and possessor of an agricultural land of an extent of Ac.1.69 ½ cents in Survey No.203 situated at Gorukal village, Panyam Mandal, Kurnool District by virtue of inheritance and while so the respondent issued notification under Section 4(1) of the Land Acquisition Act (for brevity 'the Act') dispensing with the enquiry under Section 5(A). In view of the urgency to acquire the land under Section 17(1) of the Act, respondent issued proceedings No. B5/404/2005 dated 13-05-2005 for public purpose for formation of Gorakallu Balancing Reservoir, Gorakallu village of Panyam Mandal. It is stated that under 4(1) notification and draft declaration in respect of enam dry land in Survey No.203, the name of the occupant is shown as Mahboobbee as cultivator, who is the grand mother of the petitioner and after her death, his father became the owner and after his father, petitioner inherited the same and pattadar pass book was also issued in the name of the petitioner. It is stated that the Land Acquisition Officer considered the said land as it belongs to Wakf property and no notice has been issued for passing award under Section 9 and 10 of the Act. It is also stated that the petitioner got issued a legal notice dated
05-09-2005 claiming the said property belongs to him, but not to the Wakf Board or any other institution.

Having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case with regard to the ownership, right, title or interest of the petitioner as there is prima facie evidence to show that the petitioner is the interested person, respondent is directed to issue notice under Section 9 and 10 of the Act to the petitioner to consider his right, title and claim while passing the award under Section 11 of the Act.

Writ petition is accordingly disposed of. No costs.

V. ESWARAIAH, J.

Dated: 16-03-2006

rns